



**SUSANA MARTINEZ, GOVERNOR**

David Martin, *Cabinet Secretary*

Butch Tongate, *Acting Deputy Secretary*

## **NEWS RELEASE**

**August 31, 2011**

**Contact:** Jim Winchester  
Communications Director  
New Mexico Environment Department  
(505)231-8800 / [jim.winchester@state.nm.us](mailto:jim.winchester@state.nm.us)

### **Environment Department Can Deny Discharge Permit Based On Misrepresentation**

*Court of Appeals Reverses WQCC Decision That Granted Permit to Taos Developer*

**Santa Fe, NM** – The New Mexico Environment Department believes a recent ruling by the New Mexico Court of Appeals sends a strong and clear message that applicants seeking Water Discharge Permits better tell the truth or they will face consequences.

“This decision emphasizes the need for applicants to be accurate and truthful on their permit requests,” New Mexico Environment Department Secretary David Martin said. “If more detailed information of a site is available, the applicant must be forthcoming with that information.”

The August 17, 2011 ruling reaffirms the Environment Department decision to deny an application for a septic waste discharge permit to Taos developers Richard and Sara Edelman for the Alta Vista Subdivision in Taos. According to the ruling, Sara Edelman initially filed a permit application in 2004 that only provided lithological data from a single water well located more than 1,000 feet from the proposed discharge site in order to meet regulations that groundwater quality would be protected. However, it was later discovered that Edelman had drilled another well (without a permit) within 100 feet of the location of the proposed discharge site. Not only did Edelman at first fail to disclose the existence of this well, she later submitted a well log that “contained fabricated information that could not be verified.”

Following these revelations, the New Mexico Environment Department denied the Edelman’s application for “the misrepresentation of a material fact in the permit application.” However, the Edelman’s appealed the department’s ruling to the Water Quality Control Commission (WQCC) in 2009. The WQCC concluded there was not enough evidence to determine if the Edelman’s knowingly misrepresented material in the application, and ordered the department to issue the permit.

A group of concerned citizens, not the Environment Department, took the case to the New Mexico Court of Appeals. The decision announced last week gives the New Mexico Environment Department legal grounds to deny the discharge permit.

“Regular citizens can make a difference in protecting the environment,” Secretary Martin said.

###